

lender. The application for a loan guaranty or insurance, or attachments thereto, must include or show the following:

- (1) The name and address of the borrower with the tax identification number if the borrower is a business entity or the social security number if an individual;
 - (2) A statement signed by the borrower that the borrower is not delinquent with any Federal tax or other obligations;
 - (3) The plan of operation for the economic enterprise including an identified target market for the goods or services being offered;
 - (4) Purpose(s) and the amount of the loan;
 - (5) Security to be given which shall be itemized with valuations of such collateral and the method used to value the collateral, the date of such valuation, who performed the valuation, and the creditor priority positions;
 - (6) Hazard and liability insurance to be carried;
 - (7) Interest rate;
 - (8) Repayment schedule;
 - (9) Repayment source(s);
 - (10) How title to the property to be purchased with the loan will be taken;
 - (11) Current financial statements of the loan applicant;
 - (12) Description and dollar value of the equity or personal investment to be made by the applicant;
 - (13) Charges pursuant to § 103.44;
 - (14) Pro forma balance sheets, operating statements and cash flow statements for at least three years;
 - (15) Balance sheets and operating statements for the two preceding years, or applicable period thereof if already in operation;
 - (16) The lender's evaluation of the economic feasibility of the enterprise and internal credit memorandum; and
 - (17) A current credit bureau report on the borrower.
- Applications will also show the percentage of guaranty requested.
- (b) Reasonable assurance of repayment will be considered to exist:
 - (1) In the case of individuals, where past operations and future prospects of the applicant's operations demonstrate ability to repay the loan from produc-

tion, earnings, or other assets. Full consideration will be given to the applicant's managerial ability and experience.

- (2) In the case of tribes and Indian organizations, where past operations or future plans of operations indicate that the economic enterprise for which financing is requested is economically sound. Full consideration will be given to arrangements for efficient management of the economic enterprise for which financing is requested.

- (c) The Commissioner may review applications for guaranteed loans individually and independently from the lending institution.

[40 FR 12492, Mar. 19, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 54 FR 34975, Aug. 23, 1989; 57 FR 46473, Oct. 8, 1992]

§ 103.16 Loan otherwise available.

If the information in an application for a guaranteed or insured loan indicates that the applicant may obtain the loan without a guaranty or insurance, the Commissioner may deny the request for a guaranty or insurance.

[57 FR 46473, Oct. 8, 1992]

§ 103.17 Refinancing.

- (a) Applications for loans to refinance indebtedness will be approved only if justified and required due to the applicant's financial position and if clearly to the advantage of the applicant. Applications to refinance loans to an economic enterprise will be accompanied by financial and cash flow statements required in § 103.15(a) (1) through (17). A guaranty of a loan to refinance existing indebtedness will be considered only if the loan will result in a significantly lower lender's interest rate to the borrower, or provide a substantially longer term for repayment of the loan, or decrease the loan-to-asset value ratio of the business being financed.

- (b) Applications for refinancing loans not guaranteed or insured under this part 103 will not be approved for guaranty or insurance if, in the opinion of the Commissioner, the submittal of the application is motivated primarily to

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obtain guaranty or insurance of a loan which otherwise would be made.

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§ 103.18 Furnishing additional information.

The Commissioner may require either the lender or the borrower, or both, to furnish additional information or justification for a loan prior to issuance of a guaranty certificate or insurance agreement where Commissioner approval of an individual insured loan is required.

§ 103.19 Approval of guaranteed loans.

(a) Upon a lender's approval of an application for a guaranteed loan, the lender will forward the application in duplicate to the Commissioner with a "Request for Guaranty". The Commissioner will approve the application by issuance of a "Guaranty Certificate" which will show the percentage amount of the loan guaranteed, the premium to be paid to the Commissioner and the interest subsidy to be paid on the loan by the United States.

(b) If the application is not approved, the original will be returned to the lender with an explanation, and a copy furnished the loan applicant.

§ 103.20 Approval of insured loans.

After a lender approves a loan eligible for insurance in accordance with an approved insurance agreement, the lender will proceed as authorized by the agreement. Applications for insured loans which require approval by the Commissioner as prescribed in § 103.14 will be forwarded in duplicate to the Commissioner with a "Request for Insurance" signed by the lender. The Commissioner will approve the application by issuance of an "Insurance Agreement". If the application is not approved, the original will be returned to the lender with an explanation.

§ 103.21 Modification of loan agreements.

(a) Guaranteed and insured loans may be modified with the approval of the parties to the original loan agreement. Modification of guaranteed loans and those insured loans which required

Commissioner approval, requires the Commissioner's approval only if the modification involves:

- (1) Change of the repayment schedules,
- (2) Changes in the prime security,
- (3) Change of interest rate,
- (4) Change in the use of loan funds,
- (5) Increase in the principal amount of a loan, except as provided in § 103.22,
- (6) Change of the plan of operation,
- (7) Amendment or changes in the organization papers of the borrower,
- (8) Changes in partnership agreements, and
- (9) Change in the location of an enterprise.

(b) Lenders making insured loans which under the provisions of an approved insurance agreement do not require Commissioner approval shall use prudence in approving requests for modifications of loan agreements and follow the lender's customary procedures and practices which are used in connection with noninsured loans made by it. Modifications are to be in compliance with the provisions of §§ 103.13, 103.14, and 103.24. Lenders making insured loans under the provisions of such an insurance agreement shall notify the Commissioner not later than 20 days after approval of a modification of such insured loan. Modifications of the organization papers of corporations or cooperative associations and partnership agreements and plans of operation which originally required Commissioner approval, require approval by the Commissioner upon modification.

§ 103.22 Protective advances.

When provided for in a loan agreement, and subject to the limitations on the amounts and terms of loans as provided in §§ 103.13, 103.14, and 103.24, lenders may advance, for certain purposes, up to 10 percent of the amount for which a guaranteed or insured loan originally was approved. If the borrower is unable to provide the funds or refuses to do so, an advance may be made for purposes necessary and proper for the preservation, maintenance or repair of the property purchased with or given to secure the loan; for accrued taxes, special assessments, ground and water rents, and hazard and liability insurance premiums; and for any other